

NTSB Order No. EA-4940

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 24th day of January, 2002

Docket SE-16004

¹A copy of the law judge's order is attached.

been convicted of a federal drug offense.² We will deny the appeal, to which the Administrator filed a reply in opposition.

On appeal, respondent takes issue with the law judge's conclusion that he failed to file an answer to the Administrator's complaint and that his drug conviction warrants revocation. We find it unnecessary to rule on the first question, and the second provides no basis for relief. While the record does not contain (and the Administrator says she did not receive) any document from the respondent specifically admitting or denying the several allegations in the Administrator's order, it is clear that the respondent does not dispute the fact of his conviction in federal court of a drug offense. He simply disagrees with the judgment that that court action can serve as an adequate predicate for revoking his airman certificate, since no aircraft was used in connection with his drug offense. Respondent's position finds no support in Board precedent.

²FAR section 61.15(a)(2) provides as follows:

§61.15 Offenses involving alcohol or drugs.

(a) A conviction for the violation of any Federal or state statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances is grounds for—

* * * * *

(2) Suspension or revocation of any certificate or rating issued under this part.

Respondent pleaded guilty and was convicted on March 16, 1999, of conspiracy to manufacture methamphetamine, in violation of 21 U.S.C. 841(a)(1). Although the exact term of his sentence is not reflected in the record, respondent in his brief asserts that he will be incarcerated until June 2004.

Revocation is expressly authorized under FAR section 61.15 for a state or federal conviction for the manufacture of illegal drugs, and the Board has, with court approval, found revocation to be the appropriate sanction in cases that did not involve aircraft use where the airman's conviction demonstrated his knowing participation in a criminal drug enterprise for economic gain.³ See Administrator v. Piro, NTSB Order No. EA-4049 (1993); aff'd Piro v. NTSB, No. 94-70038 (2nd Cir. 1995).⁴ A conviction for conspiracy to manufacture methamphetamine falls well within the reach of that line of cases.

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied; and
2. The order of the law judge granting summary judgment is affirmed.

BLAKEY, Chairman, CARMODY, Vice Chairman, and HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.

³In view of the above discussion, no basis exists for adopting the respondent's suggestion that we convert his sanction to a suspension (to run concurrently with his prison sentence) because his conviction did not entail aircraft use.

⁴Whether FAR section 61.15's applicability to conduct unrelated to aircraft use represents an unreasonable exercise by the Administrator of her statutory authority, as respondent contends, it is not an issue the Board has jurisdiction to entertain. See, e.g., Administrator v. Lloyd, 1 NTSB 1826, 1828 (1972).